

Merit Systems Protection Board

Pt. 1215

cause shown, a request for a single extension of time not to exceed 15 days.

(c) *Record for review.* The Board will establish, in conjunction with the MRP, standards for the contents of the record and the administrative process for review, including notice to the parties and OPM and procedures for the transfer of records from the Department to the Board.

§ 1210.41 Decision of the Board.

(a) *Board review of an MRP decision.* The Board must accept the findings of fact and interpretations of law of the MRP and sustain the MRP's decision unless the party appealing the MRP's decision shows that the MRP's decision was:

(1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) Caused by harmful error in the application of the MRP's procedures in arriving at such decision; or

(3) Unsupported by substantial evidence. The Board will apply a de novo standard of review to allegations of discrimination contained in mandatory removal appeal actions.

(b) *Definitions.* The following definitions apply to this part:

(1) *Harmful error.* Error by the MRP in the application of its procedures that is likely to have caused it to reach a conclusion different from the one it would have reached in the absence or cure of the error. The burden is upon the party appealing the MRP's decision to show that the error was harmful, i.e., that it caused substantial harm or prejudice to his or her rights.

(2) *Substantial evidence.* The degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree. This is a lower standard of proof than preponderance of the evidence.

(c)(1) *Mandatory time limit for decision.* The Board must complete its review of the record and issue a final decision within 30 days after receiving any party's response to the request for review, cross request for review, or OPM's intervention brief, whichever is filed later. The Board may extend the period for review by a single extension of time

not to exceed 15 days, if it determines that:

(i) The case is unusually complex; or

(ii) An extension is necessary to prevent any prejudice to the parties that would otherwise result.

(2) No further extension of time will be permitted.

[72 FR 56885, Oct. 5, 2007, as amended at 73 FR 21023, Apr. 18, 2008]

§ 1210.42 Intervenors.

The Director may intervene as a matter of right under 5 CFR 9701.707(f) or otherwise participate in any proceeding brought under this subpart, if the Director believes that an erroneous decision will have a substantial impact on a civil service law, rule, regulation, or policy directive.

§ 1210.43 Finality.

Final decision of the Board. A decision of the Board on a request for review of an MRP decision shall constitute a final decision subject to judicial review in accordance with 5 U.S.C. 7703.

§ 1210.44 Request for reconsideration.

A decision of the Board under this subpart is final unless the Director petitions the Board for review within 30 days after the receipt of the decision. The Director may petition the Board for review only if he or she believes the decision is erroneous and will have a substantial impact on a civil service law, rule, regulation, or policy directive. The Board may extend the filing period for good cause shown.

PARTS 1211–1214 [RESERVED]

PART 1215—DEBT MANAGEMENT

Subpart A—Salary Offset

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